

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PURE POWER BOOT CAMP, INC.,
PURE POWER BOOT CAMP FRANCHISING
CORPORATION, and PURE POWER BOOT
CAMP JERICHO INC.,

AFFIRMATION OF
RICHARD L. HERZFELD
IN SUPPORT OF PARTIAL SEALING
Index No.: 08 CV 4810 (JGK)

Plaintiffs

-against-

WARRIOR FITNESS BOOT CAMP, LLC,
ALEXANDER KENNETH FELL a/k/a ALEX
FELL, Individually; RUBEN DARIO BELLIARD
a/k/a RUBEN BELLIARD, Individually;
JENNIFER J. LEE Individually; and NANCY
BAYNARD, Individually,

Defendants.
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RICHARD L. HERZFELD, an attorney duly admitted to practice before the courts of the
State of New York, hereby affirms under penalty of perjury, as follows:

1. I am a member of Bahn, Herzfeld & Multer, LLP., attorneys for plaintiffs and make
this declaration in support of the application to seal certain portions of the record which relate to
plaintiffs' confidential and proprietary information..

2. As set forth in the original and supplemental affidavits of Lauren Brenner submitted
in support of the pending motion for injunctive relief, certain confidential proprietary information
of plaintiffs had been stolen by defendants and used by them in furtherance of their business.

3. Plaintiffs' database of all of its clients, containing names, addresses, email address,
business information, pricing information and credit card information had been downloaded from
plaintiffs' computers and incorporated into a solicitation list used by defendants.

4. As explained by Brenner in her supplemental affidavit (par. 11), the customer list is confidential as the information was unavailable to the general public by other means. It identified the subjects as people who would engage in this manner of training, together with their names, addresses, email addresses, business contact information, all information which could not be secured readily.

5. Pure Power's business plan, operations manual, its startup manual, and corporate team challenge program, which reflected plaintiffs' business plan, details of its franchising plan and its overall business operations, were maintained as confidential proprietary documents, developed at great cost to plaintiffs in furtherance of their business operations and overall franchising plan (See Brenner aff., par. 29., explaining plaintiffs' outlay of funds to develop these plans). These documents were stolen by defendants, plagiarized and incorporated into defendants' purported business plan.

6. To show the Court what had taken place, emails containing the customer list, along with other related information regarding the customers, and email solicitations identifying customers are annexed as exhibits to the motion. These exhibits are Exhibit U, X and DD, all of which disclose information from the client list to show what was taken by defendants.

7. To show the court the plagiarism by defendants, plaintiffs' business documents and franchising plan are included at Exhibit D, Q and JJ and the comparison document generated by defendants is annexed as exhibit P.

8. The customer list and corporate plans are the backbone of plaintiffs' business, all developed at substantial expense and held in strict confidence. Disclosure as part of the open court file would destroy their confidentiality and allow anyone to access and use the confidential information for their own benefit, undermining the relief sought herein.

9. The original order to show cause in state court, included the requirement that the file

be sealed. Plaintiffs request that this order be continued as to the specific exhibits set forth above.

WHEREFORE, it is requested that the file be partially sealed with respect to the foregoing Exhibits, together with such other and further relief as the court deems proper.

Dated: New York, New York

June 24, 2008 _____ S/HERZFE 25%tenog
RICHARD L. HERZFELD (0642)

construction business with my family.”

Sworn to me this day
of June, 2008
